



FH

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/150767

PRELIMINARY RECITALS

Pursuant to a petition filed July 22, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Racine County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on August 27, 2013, at Racine, Wisconsin.

The issue for determination is whether the agency has included a \$183.54 medical expense in the determination of Petitioner's FoodShare allotments.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703

By: V. Chabrier

Racine County Department of Human Services
1717 Taylor Ave
Racine, WI 53403-2497

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Racine County.
2. Petitioner filed this appeal to question whether a medical expense invoice in the amount of \$183.54 has been used in Petitioner's FoodShare allotment calculation.
3. Petitioners submitted a medical expense invoice of \$183.54 to the agency on or about December 14, 2012. The agency processed that medical expense and included in the FoodShare allotment calculation for Petitioner for the months of February, March, April and May 2013. The agency

allowed one fourth of the \$183.54 in each of those months. Petitioners also allowed a \$6.90 Medicare part D premium payment as excess medical expense in those four months.

4. Petitioner received a FoodShare allotment of \$39 in the months of February, March and April 2013. His allotment dropped \$14 in May 2013. Even though he had the excess medical expense in that month his shelter costs had decreased. The allotments just noted are after a \$10 recovery of any FoodShare overpayment. That recovery was upheld as part of the FoodShare allotment calculation in two other FoodShare hearings filed by Petitioner – Case #s 148304 and 150031.

DISCUSSION

As noted in the earlier FoodShare decisions for Petitioner - to receive FoodShare benefits a household must have income below gross and net income limits though the gross income test does not apply where a household has an elderly blind or disabled member. *7 Code of Federal Regulations (CFR), §273.9(b); FoodShare Wisconsin Handbook (FSH), § 1.1.4.* The agency must budget all income of the FS household, including all earned and unearned income. *7 CFR § 273.9(b); FoodShare Wisconsin Handbook (FSH), § 4.3.1.* The allotment calculation is based on prospectively budgeted monthly income using estimated amounts. *FSH, §4.1.1.*

Once a household passes the gross income test the following deductions are applied (*FSH, at § 4.6*):

- (1) a standard deduction - which currently is \$149 per month for a household of 1 person, *7 CFR § 273.9(d)(1)*;
- (2) an earned income deduction - which equals 20% of the household's total earned income, *7 CFR § 273.9(d)(2)*;
- (3) certain medical expenses – for medical expenses exceeding \$35 in a month for an elderly or disabled person, *7 CFR § 273.9(d)(3)*;
- (4) dependent care deduction for child care expenses, *7 CFR § 273.9(d)(4)*; and
- (5) shelter and utility expenses deduction - the deduction is equal to the excess expense above 50% of net income remaining after other deductions. *7 CFR § 273.9(d)(5).* There is a cap of \$459.00 on the shelter cost deduction unless a household has an elderly [60 or older], blind or disabled member. *FSH, §§ 4.6.7.1 and 8.1.3.*

Medical expenses are budgeted as follows:

4.6.4.1 Allowable Medical Expenses

Allow previously acquired charges (not yet paid) and current payments when calculating a medical expense deduction. Previously acquired charges include charges incurred anytime before or during the certification period, as long as the individual is still obligated to pay the expense and the incurred expense has not been previously allowed as a FS deduction.

Past unpaid medical bills can be used to prospectively budget recurring medical expenses at application or recertification.

One time medical expenses (i.e. hospital bills) can be budgeted for one month or averaged over the remaining certification period.

Medical expense payments made during the certification period are allowable. Medical expenses paid prior to the certification period are not allowable.

...
FSH, §4.6.4.1.

Here the record makes clear that Petitioner's \$183.54 medical invoice was budgeted over the months of February, March, April and May 2013. The agency representative testified that this was the most advantageous for Petitioner.

CONCLUSIONS OF LAW

That the agency has correctly included the \$183.54 medical expense in the determination of the amount of Petitioner's FoodShare allotment.

THEREFORE, it is

ORDERED

That this appeal is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

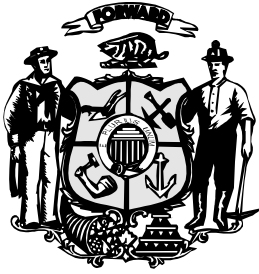
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 10th day of September, 2013

\sDavid D. Fleming
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on September 10, 2013.

Racine County Department of Human Services
Division of Health Care Access and Accountability